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METTE, EVANS & WOODSIDE

A T T O R N E Y S A T L A W

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February 23, 2018

CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

Howard Fry, III Chairman
Cogan House Township Board of Supervisors
Cogan House Township Building
4609 State Route 184
Trout Run, PA 17771

Re: Notice of Violation and Intent to Sue

Dear Cogan House Township Supervisors:

On behalf of David and Dianne Lenhart ("the Lenharts"), Cogan House Township is now put on notice of the Lenharts' intent to file a civil action in the United States District Court for the Middle District of Pennsylvania under Section 505(a)(1) of the Federal Clean Water Act ("the Act"), 33 U.S.C. §1365(a)(1) against Cogan House Township ("the Township"). The subject of the action will be the Township's illegal discharge of pollutants into waters of the United States without a valid permit in violation of Section 301 of the Clean Water Act, 33 U.S.C. §1311 and Section 404 of 33 U.S.C. §1344. The Lenharts will ask the Court to ensure the Township's future compliance with the Act, assess civil penalties in an appropriate amount, award plaintiffs' litigation costs, including attorney and expert fees, and award any other relief the Court deems appropriate. The Lenharts' Complaint will be filed a minimum of 60 days after the postmark date of this letter. This is a formal 60-day Notice of Intent to Sue that is being served pursuant to 40 C.F.R. Part 135.

By way of background, the Lenharts are the owners of property (the "Lenhart property") situated off of Post Road in Cogan House Township, Lycoming County, Pennsylvania. The Lenharts' address is 749 Post Road, Trout Run, PA 17771. The Lenharts own property on both sides of Post Road, and the driveway to their residence is connected to Post Road.

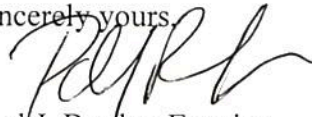
In 2011, Cogan House Township approved improvements to Post Road in anticipation of gas drilling activities being conducted in the area. Prior to the improvements, Post Road was a gravel covered road and the road surface was from 12-16 feet wide with stone shoulders of varying widths. The area of the improvements was approximately 1 mile in length, and was subject to a full-depth reclamation 16 feet across, which involved grinding the roadway surface to a depth of 1 foot, mixing powder, cement and water with the ground material, laying that mixture on the roadway and topping that with 3 inches of blacktop. The improvements included 4 foot stone shoulders and grass-lined swales on both sides. Existing piping was also replaced, and a new pipe was added at a neighboring driveway, upgradient and south of Lenhart driveway.

In 2014, due to soft spots and cracking, additional work was performed to prepare the roadway. A rock-lined underdrain/swale was installed in the ditch to the east side of the road for 1,000 feet, the road was overlaid with additional blacktop, and a 1,000 foot section of berm was paved on the east side.

The environmental impacts of this construction activity are significant. Stormwater now collects and flows with high velocity along the improved roadway, washing out stone, gravel and other pollutants and carrying those pollutants to a wetland area, which is a water of the United States, down gradient from the Lenhart driveway. This water falls within the jurisdiction of the United States Clean Water Act. Additionally, as a further result of the construction activity approved by the Township, sediment and other pollutants flow at a high velocity into Bear Run, as well as into a tributary to Bear Run, at two additional and distinct locations. The sediment, gravel and other substances constitute a pollutant under the Clean Water Act, which is being discharged into waters within the jurisdiction of the Act without an appropriate NPDES permit. The Act prohibits the discharge of pollutants, and the Township's violations of the Act's prohibitions against unpermitted discharges occurred and are continuing to occur each time rain, snow, or other factors result in discharges into the wetland area.

In accordance with the Act, we are providing copies of this Notice to the Administrator of the U.S. Environmental Protection Agency, the Regional Administrator of Region 3 of the Environmental Protection Agency, as well as the Secretary of the Pennsylvania Department of Environmental Protection. This Notice is made, and is intended to satisfy, the requirements of Section 505 of the Clean Water Act relating to citizens' suits and notice of intent to sue. We believe this Notice of Violation and Intent to Sue sufficiently states the basis for a civil action. During the (60) day notice period, we would be willing to discuss effective remedies for the violations noted in this letter that may avoid the necessity of litigation. If you wish to pursue such discussions, please have your counsel contact me at 717-232-5000 within the next (20) days so that negotiations may be completed before the end of the (60) day notice period. We will not delay the filing of a Complaint in federal court if discussions are continuing when that period ends.

Sincerely yours,



Paul J. Bruder, Esquire
Aaron D. Martin, Esquire
METTE, EVANS & WOODSIDE
Legal Counsel to:
David and Dianne Lenhart
749 Post Road
Trout Run, PA 17771
(570) 634-2173

cc: Scott Pruitt, Administrator-U.S. Environmental Protection Agency (certified mail)
Cosmo Servidio, Administrator-U.S. Environmental Protection Agency Region 3
(certified mail)
Secretary Patrick McDonnell, PA Department of Environmental Protection (certified mail)
David and Dianne Lenhart (regular mail)